



TOWN OF DURHAM

Office of the First Selectman

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Maryann P. Boord
First Selectman

SPECIAL BOARD OF SELECTMEN'S MEETING

June 13, 1990

7:00 p.m.

Middlefield Town Hall

The joint meeting of the Durham and Middlefield Boards of Selectmen was called to order a 7:03 p.m. by David Webster, First Selectman of Middlefield. The DMIAAB Board was also in attendance.

Present: M. Boord, F. Korn, G. Lavine, (Durham Board of Selectmen); Atty K. Antin (Durham's Town Counsel); D. Webster, J. Blois, E. Burgess, (Middlefield Board of Selectmen); Atty B. Morasutti (Middlefield's Town Counsel); I. Kerscher, E. Burns, D. Trombley, M. Corona, M. Timbro (DMIAAB), B. Gallagher, Phil Armetta, and members of the public.

Atty Ken Antin gave an overview of the three options under consideration: CRRA (Connecticut Resource Recovery Authority), CLSP (Connecticut Landfill Service Partners)/Lisbon, and ERS (Environmental Recovery Systems). Ken noted that the contracts under review are dated 5/29/90 for CRRA and Nov./Dec. 1989 for CLSP/Lisbon.

The following comparisons were made regarding these two contracts:

	<u>CLSP</u>	<u>CRRA</u>
1. Term	5 yr towns can terminate the contract within that time only by entering into a long- term (10 yr) contract with Lisbon or another vendor	10 yr additional 10 yr renewal, if there is capacity for us; towns can terminate contract after 7/1/93 with 6 mth prior notice
2. Tip Fees	\$65/ton interim solution; annual increases tied to CPI; (price includes hauling)	approx. \$56/ton*; increases in portion to member town increases; (plus hauling costs)

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| 3. | Minimum Chrg. | (Put or pay) Town pays greater of (a) tip fee x actual tonnage or (b) tip fee x 90% of est. tonnage | None - only pay for tonnage actually delivered |
| 4. | Disposal Site | Unidentified | Mid-Conn in Hartford with by-pass compensated for at one of their other facilities |
| 5. | MRRRA debt | None required | Portion of tip fee (approx. \$3.70/ton). Total debt amortized over 10 years/no int. |
| 6. | Transfer Station | To be built to their specs. | Not required |

*CRRA tip fee composed of (a) Mid-Connecticut member tip fee plus 10% (\$45 + \$4.50) (b) MRRRA "debt" amortized over 10 yrs/no int. (approx. \$3.70/ton) (c) est. cost of by-pass waste (est. \$2/ton)

M. Boord mentioned the most recent offer by Tim Wiens of ERS is \$78/ton for their Plainfield facility upon completion of that project, with a willingness to provide interim service until Plainfield is operational. The \$78/ton is negotiable with a transportation allowance; and that fee will be constant throughout the 25-year contract with the only increase being the CPI or 5% escalator, whichever is greater.

M. A. Corona noted that Middlefield's "debt" is estimated at \$103,459 and Durham's at \$145,282. M. Boord said that CRRA has stated that the pay back of the debt is not a negotiable item. This was confirmed by both town counsels.

M. Boord stated that the only other possibility of eliminating the "debt" she can think of was if our legislator creates special legislation to do so. She has spoken with Bob Wright, CRRA's attorney, who is willing to accept payment from any source as long as the "debt" is paid.

M. Boord expressed concern regarding Middletown's obligation to pay back their portion of the total MRRRA "debt", especially if CRRA finances the Lisbon project. Again, Bob Wright responded that Middletown's portion of the "debt" will be paid back. He doesn't care how; but it will be paid. M. Boord stated that B. Wright had agreed to add language into the contract such as, "to the extent that CRRA forgives the debt for any of the towns, they will forgive it for all of them."

I. Kerschner feels that we need to proceed on the basis that we are going to start paying off this "debt" until such time as we find we do not have to pay it. He doesn't want the "debt" to be a stumbling block.

G. Lavine believes that the way the contract now reads, if we sign the CRRA contract, it makes us liable for the full amount of the "debt" even if after three years we terminate the agreement. Town counsels agreed unless the towns find some other way of satisfying it. K. Antin noted that whether or not we choose the CRRA contract, they still have a claim to that "debt".

E. Burgess noted that our normal budgetary process will most likely solve the percentage of Durham vs. Middlefield's portions of the "debt".

M. Boord commented that Atty. Dick Adams, who represents the Lisbon project, called today and requested that the representatives of that project be allowed to make a formal, up to date presentation on that long-term option as soon as possible. He noted Middletown's decision to go short term with CRRA and long term with Lisbon, and asked if we had that option as well. M. Boord responded that Section 505 of the CRRA contract allows termination of the contract with 6 mth prior notice after July 1, 1993. She further mentioned recent talk of Bristol expanding, having a clearer picture of Lisbon and ERS of Plainfield at that time, and the probability of Mid-Connecticut expanding.

I. Kerschner, the Durham representative to MRRRA, advised us that the agreement was that the "debt" was to be repaid if the project was completed. Since that did not occur, Atty. David Silverstone, MRRRA's attorney, is of the opinion that we do not legally owe the "debt". Therefore, if we do not choose CRRA, we have that legal opinion to fall back on.

Discussion of our present status with CRRA revealed that under the spot waste agreement, we can be shut off from the Mid-Conn Plant with 12 hrs. notice. Signing this contract would eliminate that risk. Additionally, although we would never be considered "member towns" (only those 44 towns who signed on to the Mid-Conn Project initially are member towns), we would never pay more than the spot waste tip fee after signing this 10-year contract.

Phil Armetta, developer of the Lisbon project, expressed the opinion that signing the CRRA contract would make us responsible for costs associated with rebuilding or replacing the plant; that the CRRA contract is an open-ended contract; and that, this being "the largest contract the towns will ever sign" we should have hired a consultant to review the contracts as Middletown had done.

I. Kerschner asked to go on the record as believing that "down the road" we will all be looking at composting as a better way of disposing of our garbage and trash than burning.

B. Gallagher sought clarification on the by-pass probability. M. Boord explained that at the last Mid-State Council of Governments meeting, Bob Wright explained that although we would receive the charge for by-pass, Mid-Connecticut would direct a similar amount of garbage and trash from the closest location to the closest landfill. Therefore, they would most likely always accept our tonnage at the Mid-Connecticut facility.

J. Blois noted the support CRRA has provided for other members of the Mid-State Council of Governments when the need was immediate. At that time, although there was no threat of the "debt" by CRRA, we gave assurances that we would at least address it.

G. Lavine wants to acknowledge that although we are calling this a "debt", we do not, in fact, owe this amount except perhaps in a moral sense, but not legally. If we do decide to go with CRRA, she wishes us to think of this "debt" as a separate part of the contract. She thinks we should go in this direction, however. Gladys suggested that the subject come before the Board of Finance and Town Meeting.

Discussion ensued as to whether or not we were required to bring the contract and/or the debt to town meeting. The result was that all agreed whether we were required to or not, we would do so. K. Antin made comment that although it may not be necessary from the town's point of view, there is a Statute 22a-221 which requires that a contract with a municipality is a valid/enforceable debt only when approved by the legislative body of the town--in our cases, the Town Meeting.

F. Korn commented on dealing with the "debt" as a separate issue. He recognized that since CRRA will not deal with the "debt" as a separate issue, we would not be able to enter into a contract with them if that is our stipulation.

E. Burns expressed concern as to what we would do if the town meeting voted not to pay back the MRRRA "debt". We could not enter into the agreement with CRRA then. Where would we go?

Clarification was made that the contracts will be executed with the two towns and not with DMIAAB.

Agreement was reached that, if legal, we will hold both Durham and Middlefield's town meetings at the Coginchauq auditorium at the same time. We will seat the residents of each town together so that the vote will reflect that town's consensus.

M. Boord listed her reasons for supporting the 10-year CRRA contract:

- The interim solution has been working well for us during the past year; we have not been turned away.

- This contract will allow us to continue to move ahead with our present plans for a compactor for our transfer station.

- We know where our garbage and trash will be going.
- It is a plant that is effectively operating.
- This contract will allow us to negotiate long-term solutions other than the Mid-Connecticut Plant, beginning any time after July 1, 1993, with 6 mth prior notice.

A motion made and seconded to authorize the first selectman (of Middlefield) and the town attorney to negotiate a contract for a 10-year agreement with CRRA, subject to Board of Selectmen approval. Motion made by J. Blois, 2nd by E. Burgess, 3 ayes.

A motion made and seconded to authorize the first selectman (of Durham) and the town attorney to negotiate a contract for a 10-year agreement with CRRA, subject to Board of Selectmen approval. Motion made by F. Korn, 2nd G. Lavine, 3 ayes.

I. Kerschner complimented both boards of selectmen on the action taken. M. Boord countered that DMIAAB's efforts deserve applause as well. And so, there was applause!

After a short break, discussion of the CRRA 10-year contract was conducted page by page. Questions and concerns will be addressed during negotiations with CRRA. The amended, final contract, will be brought back to the full boards of selectmen for approval. Then the final contract will be brought to town meeting for approval.

The meeting was adjourned at 10:03 p.m.

mpb
6/15/90